

SENATE BILL REPORT

SB 6198

As Reported By Senate Committee On:
Ways & Means, January 24, 1996

Title: An act relating to collection of state retirement system overpayments.

Brief Description: Collecting state retirement system overpayments.

Sponsors: Senators Long and Fraser; by request of Department of Retirement Systems.

Brief History:

Committee Activity: Ways & Means: 1/11/96, 1/24/96 [DPS].

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6198 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rinehart, Chair; Loveland, Vice Chair; Bauer, Cantu, Drew, Finkbeiner, Fraser, Hochstatter, Johnson, Long, McDonald, Moyer, Roach, Sheldon, Snyder, Spanel, Strannigan, Sutherland, West and Winsley.

Staff: Denise Graham (786-7715)

Background: The Department of Retirement Systems (DRS) must use the Attorney General's Office to establish a person's liability for overpayments and to pursue collection remedies such as filing liens. The department has no statutory authority to issue subpoenas to compel statements of witnesses and production of documents necessary for the administration of its duties. This sometimes hampers the department's ability to investigate a debtor's financial status and ability to repay overpayments.

When the department discovers an error in its records that has resulted in a member or beneficiary receiving an overpayment, DRS must reduce the member's correct benefit to recover the overpayment even if the overpayment is due to a mistake made by the department.

Summary of Substitute Bill: The Department of Retirement Systems (DRS) may issue an order and notice of assessment, which constitutes a determination of liability, to any member, beneficiary or other person who is not entitled to a continuing retirement benefit and who is paid an amount of retirement benefits to which that person or entity is not entitled. The member, beneficiary, other person or entity may appeal the notice of assessment by filing a petition with the director of the department within 60 days. If no appeal is filed within 60 days, the determination that established the overpayment debt and the assessment is final.

After a notice of determination is final, the director may file a warrant for the amount of the notice of determination of liability plus a \$5 filing fee with the superior court clerk of any

county within the state. The amount of the warrant becomes a lien upon the title to all real and personal property of the person against whom the warrant is issued.

The department may issue subpoenas to compel the statement of witnesses and the production of any books, records, or documents necessary for the department's administration of the state's retirement systems.

The director of DRS may waive repayment of all or part of a retirement benefit overpayment when the overpayment is not the fault of the retiree or the beneficiary and when the recovery of the overpayment would be a manifest injustice. The director may not waive overpayment when the member, retiree or beneficiary knows or should know that he or she is in receipt of an overpayment. When the director waives an overpayment that results from incorrect or incomplete information from the member's or retiree's employer, the department bills the employer for the amount of the overpayment. The director may not waive the prospective correction of an overpayment. When the director waives an overpayment, the reason for the overpayment and the waiver, and the amount of the waiver must be stated in writing and kept in a file containing documentation of all waived overpayments. The new waiver provisions apply to overpayments identified on or after September 1, 1994.

Substitute Bill Compared to Original Bill: The original bill allowed the recipient of an order and notice of assessment two opportunities for an administrative appeal of the assessment. The substitute bill provides one opportunity for an administrative appeal.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill would help the Department of Retirement Systems carry out its fiduciary responsibilities.

Testimony Against: None.

Testified: Sheryl Wilson, Dept. of Retirement Systems.